IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

DARIN CROSS, et al., Plaintiffs, vs. SUPERIOR HOME MAINTENANCE, L.L.C., et al., Defendants.	No. 2:13-cv-0470-HRH

O R D E R

Motion to Approve Settlement

Plaintiffs and defendants Superior Home Maintenance, L.L.C.,and Michael Forest (the "Settling Parties") have served and filed their stipulated motion to approve settlement and for dismissal of the moving defendants.[1] The motion is opposed by defendants Sweet Enterprises, Inc., and Charles and Lorrie Sweet (the "Sweet Defendants").[2]

This is a potential collective action brought against all of the defendants pursuant to the Fair Labor Standards Act ("FLSA") minimum wage and overtime pay provisions. 29 U.S.C. §§ 206(a) and 207(a). Because of the very early proposed settlement between plaintiffs and the Settling Parties, the court has not yet determined whether or not to grant proposed conditional certification of the case as a collective action. So far as the court is aware, no significant discovery has been made. In their response to the motion for approval of the settlement, the Sweet Defendants have

[1]Docket No. 30. The court infers there is not Jane Doe Forest.

[2]Docket No. 31.

objected that the settlement agreement in question[3] sets forth only a gross dollar settlement for all of the plaintiffs as opposed to an allocation of that settlement between them. The responding defendants also point out that the Settling Parties' initial motion for approval of the settlement provides the court with precious little information as to how and why the settlement was reached. In their reply, the Settling Parties have provided the court with significant, additional information.

The Settling Parties' reply, which is expressly approved as to form and content by the settling defendants, explains that the plaintiffs have agreed to an equal division amongst them of the settlement sum. That equal allocation of the recovery certainly raises some questions. In considering a settlement of proceedings such as this, the court would usually look to such factors as the duration of the individual plaintiffs' employment with the settling defendant, their respective rates of pay, and the evidence of the number of hours of overtime worked. Here, that information is not yet available to the settling defendants or the court because discovery has not yet gone forward. However, the plaintiffs themselves obviously know the basis for their respective claims. As reflected in the Settling Parties' reply, and especially because of the very early nature of this settlement, there are a host of legal issues which are yet to be resolved. There will certainly be costs to effecting such resolutions, and plainly the Settling Parties deem it advisable to cut through those difficulties by making compromises and ending the litigation.

This proposed settlement has taken place in an adversarial context. The parties are represented by experienced counsel. They recognize that there are substantial FLSA coverage and computation issues which would have to be resolved, and the Settling Parties themselves vouch for the acceptability and fairness of an early resolution of the case as between plaintiffs and the Superior Home/Forest Defendants.

The motion for approval of settlement is granted. Plaintiffs' complaint is dismissed with prejudice as to defendants Superior Home Maintenance, L.L.C.,and

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[3]Docket No. 30-1.

Michael R. Forest and Jane Doe Forest, the parties to bear their own attorney fees and costs.

DATED at Anchorage, Alaska, this 30th day of September, 2013.

/s/ H. Russel Holland
United States District Judge